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BEFORE THE  
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760, SUB-FILE 44



IN THE MATTER OF ARBITRATION BETWEEN UNION PACIFIC RAILROAD  
COMPANY AND THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND  
TRAINMEN

(Arbitration Review)

ENTERED  
Office of Proceedings

JUN 06 2005

Part of  
Public Record

CARRIER'S OPPOSITION TO PETITIONER'S  
REQUEST FOR LEAVE TO FILE SUR-REPLY

COMES NOW Carrier Union Pacific Railroad Company ("UP") and files the following opposition to Petitioner Brotherhood of Locomotive Engineers & Trainmen's ("BLET") Request for Leave to File a Sur-Reply in the above-referenced arbitration appeal. The Board's rules specifically do not permit the filing of sur-replies, and the reasons for this rule are obvious. Like most sur-replies, BLET's sur-reply simply reargues the points made in its principal brief. There is no reason to permit BLET to file another brief rearguing these points. Consolidated R. Corp. – Declaratory Order Proceeding, 2003 WL 222322036, at \*4 (STB Oct. 10, 2003) (sur-reply not permitted where it adds nothing of significance).

Moreover, the arguments BLET makes in its sur-reply are simply wrong. BLET continues to claim that the jurisdiction of New York Dock arbitrators extends to all disputes arising under side letters to all agreements that contain any New York Dock language, even if the dispute has nothing to do with any provision of the New York Dock Conditions. BLET's argument is directly contrary to the plain language of Article I, § 11 of New York Dock, which expressly limits the jurisdiction of New York Dock arbitrators to disputes that arise out of the

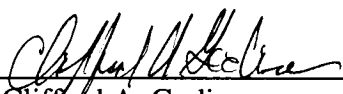
“interpretation, application or enforcement” of the New York Dock Conditions. BLET does not even attempt to argue that the dispute at issue meets this standard.

Finally, BLET’s contention that UP’s position – allowing Railway Labor Act (“RLA”) arbitrators to resolve disputes not involving the “interpretation, application or enforcement” of New York Dock – would lead to a flood of litigation before this Board is exactly backwards. It is BLET’s position – requiring New York Dock arbitrators to resolve disputes not involving the “interpretation, application or enforcement” of New York Dock – that would embroil this Board in hundreds or thousands of disputes that have nothing to do with the Board-approved transactions and this Board’s labor protective conditions. On the other hand, allowing disputes not relating to New York Dock to be resolved by the expert arbitration boards created by § 3 of the RLA will decrease the number of matters that come before this Board.

WHEREFORE, for all of the foregoing reasons, UP respectfully requests that BLET’s Request for Leave to File a Sur-Reply be denied.

Respectfully submitted,

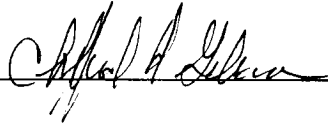
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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served, via United States mail, first class postage prepaid, this 6<sup>th</sup> day of June 2005 on Thomas H. Geoghegan & Carol Nguyen, Despres, Schwartz & Geoghegan, 77 West Washington St., Suite 711, Chicago, IL 60602.



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